

From: [Aponte, Camille - OCIO-CIO, Washington, DC](#)
To: 75106-65171935@requests.muckrock.com
Subject: RE: Acknowledgment of FOIA Request No. 2019-DA-00132-FP
Date: Wednesday, June 26, 2019 10:39:00 AM
Attachments: [image001.png](#)

Dear Mr. Sai:

I am following-up on this matter.

Your request has been put on hold and cannot be processed until the scope is clarified, as explained below. If your response is not received by Thursday, July 11, 2019, the above-referenced FOIA request will be administratively closed.



Camille C. Aponte-Rossini
 Government Information Specialist
 Departmental FOIA Office
 Office of the Chief Information Officer
 U.S. Department of Agriculture
 1400 Independence Ave., SW, Room 4105
 Washington, DC 20250
Desk: 202-694-5260
✉ Camille.Aponte@usda.gov

From: Aponte, Camille - OCIO-CIO, Washington, DC
Sent: Monday, June 17, 2019 4:49 PM
To: 75106-65171935@requests.muckrock.com
Cc: USDAFOIA - OCIO <USDAFOIA@ocio.usda.gov>
Subject: Acknowledgment of FOIA Request No. 2019-DA-00132-FP

Dear Mr. Sai:

This email acknowledges receipt of your attached Freedom of Information Act (FOIA) request to the U.S. Department of Agriculture (USDA), Departmental FOIA Office (DFO). Your request was received by this office on June 11, 2019. You have requested the following records, indicating "no time limit to this request, other than such limits as may be implicit in the ordinary retention policies of the [relevant] databases".

Part A:

I hereby request, for every component agency, office, subcomponent, department, or other formal organizational unit, the single email (but see below re "All parts of the record") that:

1. was sent within 3 days of 2019-04-20;
2. is from or to any email address, used in official capacity, of any person working for that organizational unit's highest-ranking set of people (e.g. headquarters, senior employees, etc) at the time of the email;
3. has an attachment larger than 50 KB; and
4. among all emails matching the above two constraints, has a sent timestamp closest to 2019-04-20, 4:20 pm (local time to the person whose email address it is to it from).

Part B: [A]ll records relating to the fulfillment of this request, such as FOIA logs, documentation of searches, referral emails, etc.

Part C. [A]ll records relating to any complaint(s), FOIA request(s)/appeal(s), and/or Privacy Act request(s)/appeal(s) made by me. This includes, but is not limited to:

1. all records relating to the processing of my previous requests, complaints, etc;
2. all records containing the terms my name, email address(es), and other contact or identifying information, listed below my signature; and
3. all records containing any of my complaint, request or appeal identifiers.

The DFO is under the purview of the Office of the Chief Information Officer (OCIO) and serves as the focal point for USDA's FOIA program. The DFO provides coordination and ensures agency wide compliance with the FOIA. The DFO processes requests and appeals on behalf of the Office of the Secretary and Departmental Administration's (DA) components. For a complete listing of DA's components, please visit <http://www.dm.usda.gov/agencies.htm>.

Request Not Reasonably Described

Your request is too broad in scope or did not specifically identify the records which you are seeking. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. See 7 C.F.R. § 1.5(b). Where possible, a requester should supply specific information regarding dates, titles, names of individuals, names of offices, and name of agencies or organizations that may help identify the records. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records. In addition, in order for an email search to be conducted, you will need to identify USDA employees whom you believe are likely to maintain emails pertaining to the subject of your request. Unfortunately, we cannot conduct broad sweeping searches of all USDA email accounts.

Request Part A:

Here, the request seeks a Department-wide search for a great body of email records in order to identify a single email within each agency and component. That "would require the agency to examine and sift through a larger body of records to ensure that only . . . [those of certain employees] were included from any given [agency or component]. This sort of sifting and analysis is not a burden that the FOIA imposes on federal agencies." *Nat'l Sec. Counselors v. C.I.A.*, 960 F. Supp. 2d 101, 158 (D.D.C. 2013). The time scope provided in item 1 is superfluous because the request is for a single email (for each agency and component) given the lack of any subject matter. No description is provided for the subject matter or topic of the records sought, beyond a potential time stamp and potential attachment. If the request seeks a specific email message you know to be in existence, please provide identifying information specific to such message, such as the USDA employee(s) that would be part of it. If the specific date and time provided correspond to a particular topic, subject matter or event of interest, please describe it. Further

With regard to the USDA employees to be searched, described under item 2 as each “organizational unit’s highest ranking set of people”, please note the DFO understands this to mean the top one or two individuals in each agency or component, such as the head and their deputy, if any.

Request Part B:

Only such records as those that might have been created by the agency by the time of the first search for records may be furnished in response to this request. A subsequent request would have to be filed upon the closure of this request for all records relating to its fulfillment.

Request Part C:

The request does not identify any complaint(s), FOIA request(s)/appeal(s), and/or Privacy Act request(s)/appeal(s) that might have been made by you. As such, this part of the request is not reasonably described and no search can be undertaken. Please provide the pertinent case or reference number(s) for the matters for which records are sought.

Based on the forgoing, please provide the additional information that is lacking in order to clarify your request an enable a search to be conducted.

Fee Category & Fee Waiver

Provisions of the FOIA allow USDA to recover part of the cost of complying with your request. For purposes of fee assessment, you were categorized as a “all other” requester, pursuant to 7 CFR Appendix A to Subpart A of Part 1 Section (5)(d). For your review and information, a copy of the USDA FOIA Fee Schedule is attached. In accordance with 7 CFR Appendix A to Subpart A of Part 1 Section 6(a)(4), your fees shall be waived where the amount of the fee is \$25.00 or less.

You have requested a fee waiver. In support of this request, you assert the following:

This request is a qualified request for journalistic, public interest purposes. As such, I request fully waived fees, including both public interest fee waiver and journalistic fee waiver.

1. Fiat Fiendum, Inc. (FF) is a 501(c)(3) nonprofit organization, organized for charitable, educational, scientific, and/or literary purposes. This request is a part of FF's bona fide educational and scientific purpose activities, which are public interest purposes as a matter of law.
2. FF's actions in matters such as this request are non-commercial. My personal interest in the records is also non-commercial.
3. Both Fiat Fiendum as an organization, and I as an individual, are representatives of the news media and entitled to waiver of all search fees.
4. I intend and am able to host and publish all received records online to the general public at no charge, as well to publish highlights, analyses, summaries, commentaries, and other creative, original journalistic and scientific work about responsive records through multiple online publications, as part of Fiat Fiendum's work.
5. The records requested are of significant public interest, entitled to waiver of all duplication fees, since

- a. they are requested for 501(c)(3) public interest purposes;
- b. as above, I both am able and intend to disseminate the files widely;
- c. they would contribute greatly to the public understanding of the operations & activities of your agency, in that they are records that directly describe agency operations & activities, as well as the issues and matters described at the top of this letter;
- d. they are not currently readily available; and
- e. they are likely to be requested by others.

You are asking to be categorized as a news media requester for purposes of fees. A news media requester is "any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." *Cause of Action v. FTC*, 799 F.3d 1108 (2015). The term "news" means information that is about current events or that would be of current interest to the public. *Id.* The requester's information-gathering activities are apparent through this and numerous other FOIA requests it has filed. However, the request does not describe firm plans to editorialize and publish distinct work. An internet search for the requesters Sai and Fiat Fiendum did not provide additional information that would support these points. Further, because the records request is not reasonably described, the DFO cannot characterize the event(s) or interest(s) responsive records might relate to. Based on the foregoing, the request to be classified as a media requester is denied.

With regard to a fee waiver, the USDA FOIA regulation (7 CFR Appendix A to Subpart A of Part 1 Section (6)(a)(1)) sets forth six factors USDA is required to evaluate in determining whether the applicable legal standard for a fee waiver has been met:

- i. The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government";
- ii. The informative values of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- iii. The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether the disclosure of the requested information will contribute to "public understanding";
- iv. The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;
- v. The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and,
- vi. The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

Upon review of your request and a careful consideration of the factors listed above, the DFO has determined to deny your request for a fee waiver because the information that you provided has not satisfied all six factors. Specifically, the request lacks sufficient information to address factors 1, 2, 3 and 4. As explained above, the request is not reasonably described; as such, it does not allow for a fee waiver analysis to be conducted under these factors. You will be charged in accordance with the attached USDA FOIA Fee Schedule. You may provide additional information in support of the factors that have not been met for reconsideration of the fee waiver.

You have the right to appeal, pursuant to 7 CFR §1.14, the denial of a preferred requester category and of a fee waiver. The appeal must be received within 90 days of the date of the denial letter. The written appeal must clearly indicate that a FOIA appeal is being made and should be sent to: Assistant Secretary for Administration, USDA, 1400 Independence Avenue, S.W., Whitten Building 209-A, Washington, D.C. 20250-0103. Your appeal should include a copy of the original request, the response to the request, and a statement of your reason for the appeal. To facilitate the processing of an appeal, the phrase "FOIA APPEAL" in capital letters should be placed on the front of the envelope.

Your request has been assigned **FOIA Case No. 2019-DA-00132-FP**. Please refer to this case number in any future correspondence. If you have any questions regarding this email or would like to discuss these matters, please contact me at 202-694-5260 or electronically at camille.aponte@usda.gov or USDAFOIA@ocio.usda.gov.

For additional information regarding USDA FOIA regulations and process, please refer to the information available on-line at www.dma.usda.gov/foia.

We appreciate the opportunity to assist you.

Sincerely,

USDA Departmental FOIA Office



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From: 25104-4071195@requests.muckrock.com
 To: USAGFOIA_OOIC
 Subject: Freedom of Information Act Request: One email, per organizational unit, dated 2019-04-20 (Department of Agriculture)
 Date: Monday, June 10, 2019 11:41:13 AM

Department of Agriculture
 FOIA Office
 Room 408-W, Whitten Building
 1400 Independence Avenue, SW,
 Washington, DC 20250-0706

June 10, 2019

Dear Department of Agriculture:

This letter is a formal Freedom of Information Act request for the following records.

This request covers every Department of Agriculture component, including component agencies, departments, offices, OIGs, etc. See "# Forwarding: multi-agency / multi-component records" below. Again, this request is directed at BOTH Department of Agriculture itself, and ALL components thereof, including any component agencies.

At your discretion, you may either apply only a single tracking number for the whole request tree (acting for all subcomponents), or each subcomponents may apply its own tracking numbers.

In either case, you are expected to strictly comply with 5 USC 552(a)(6) and (a)(7).

In particular, you are expected to provide notice (by email) of all referrals made, and any other tracking numbers of which you are aware.

This request is part of an all-agency FOIA audit. Your performance will be tracked, analyzed, and published.

Any unlawful patterns or practices discovered in the course of this audit will be highlighted for public shaming, and will likely be litigated for permanent injunctions.

Any particularly good performance will, by the same token, be highlighted for public praise.

A. One email per organizational unit

I hereby request, for every component agency, office, subcomponent, department, or other formal organizational unit, the single email (but see below re "All parts of the record") that:

1. was sent within 3 days of 2019-04-20;
2. is from or to any email address, used in official capacity, of any person working for that organizational unit's highest-ranking set of people (e.g. headquarters, senior employees, etc) at the time of the email;
3. has an attachment larger than 50 KB; and
4. among all emails matching the above two constraints, has a sent timestamp closest to 2019-04-20, 4:20 pm (local time to the person whose email address it is to from).

 Fiat Fiendom FOIA template
 Version 5.0
 ##

FOIA template structure

All content after the version number line above, except for the contact details at the very end, is part of my standard FOIA request template and identical between all of my FOIA requests. The provisions below are generally applicable to all FOIA / Privacy Act requests that I make.

There is one exception: the contact details below my signature at the very bottom (provided by MuckRock) are different for each request. Please use the distinct contact details matching each request, to ensure that your responses are correctly tracked.

The template provisions specify e.g. additional requests relating to my FOIA/PA requests themselves, form and format, timing, redaction & review, rolling updates, § 508 compliance, identity, fee waiver, my identity, and the like. They apply to this request, but are not specific to it.

If anything in the request-specific section above explicitly overrides anything in this template section, the request-specific section controls. If there is any ambiguity about such an override, please ask me for clarification.

The version number above is provided to make it easier for you to process my requests. Since all content (except contact info) below identical version number lines is identical between my requests, you need track only the request-specific portions (at the top) and the latest version of my general provisions.

Please read each new version carefully, as updates generally contain substantive changes.

Template version updates

If you receive any FOIA request from me with a newer template version number than any pending prior FOIA requests from me, please replace the template portion of all prior requests with the updated version, treat the update as a clarification of and/or extension to the prior request, and process each updated request accordingly. Do not close the original request or change its request date. If you are permitted by law to refuse to honor such an update, and you choose to exercise that refusal, please process any differences between the new version and the prior version as a new FOIA request in its own right.

Additional FOIA requests

In addition to the records specified in the request-specific section above, I also request:

B. all records relating to the fulfillment of this request, such as FOIA logs, documentation of searches, referral emails, etc.

This part of the request is to be processed only after you have completed processing all of the above parts. This part does not request that you create any new record; rather, it requests the records that you will have created in processing the above parts, and will therefore exist before you conduct the search for this part. See McGeehee v. CIA, 697 F.2d 1095, 1100-05 (D.C. Cir. 1983) (agency must use time-of-search cut-off date, not time-of-request).

C. all records relating to any complaint(s), FOIA request(s)/appeal(s), and/or Privacy Act request(s)/appeal(s) made by me. This includes, but is not limited to:

1. all records relating to the processing my previous requests, complaints, etc;
2. all records containing the terms my name, email address(es), and other contact or identifying information, listed below my signature; and
3. all records containing any of my complaint, request or appeal identifiers.

Parts (B) and (C) must be processed only after you have processed the items above that line, i.e. such that at the time of the search, the records described will have already been created at the time you conduct the search. Part (C) must be processed after part (B) is completed.

Parts (B) and (C) may overlap with similar prior requests. However, the cut-off date is, at earliest, the date that you complete search on all of the above items. If you wish to administratively merge this request with a prior similar request, I consent on condition that you extend the cut-off date for the prior request, and provide rolling updates. Otherwise, you must treat this as a new request.

For all responsive records, I also request:

D.

1. all parts of the record (i.e. no portion of a record with some responsive portion may be considered "non-responsive");
2. all versions of the record, whether or not currently in use;
3. all record metadata, such as dates on which they were drafted, passed, went into effect, withdrawn, or similar events; person(s) / office(s) responsible; authors; ID(s); revision numbers; etc.;
4. a detailed index of all claims of exemption/privilege, regardless of whether the record is claimed to be exempt in whole or in part; access to inspect the record directly, in its native electronic format; and
5. if any classification applies, mandatory declassification review (MDR) under E.O. 13526, and the result of the MDR, including any declassified records.

"All parts of the record" means that the "record" should be considered to be the most comprehensive record with any responsive portion. For instance:

- a) if any portion of an email is responsive, the entire contents of all email thread(s) to which that email belongs is also responsive (including attachments);
- b) if a record is part of a larger record, such as a responsive table that is in a chapter of a report, then the entire larger record (e.g. the full report) is responsive, together with any appendices, amendments, etc.;
- c) if a record is part of a book, the entire book is responsive;
- d) if a record is part of a database, all related database records are responsive; etc.

"Related database records" has the technical meaning used in relational database management systems (such as SQL). It recursively includes all directly and indirectly related records (starting with all responsive records, include as responsive the full row of each, and recursively include as responsive all rows for which any responsive record has a foreign key or is referenced by a foreign key), together with the schema for all responsive records.

Items in part (D) should be prioritized at the same level as the record they apply to.

Timing

For all requests above, the "cut-off date" is, at the earliest, the date that you conduct the search.

The priority order listed above is only for items that may take extra time to respond to, and must not be taken as blocking response to an otherwise lower priority item that could be released more quickly than a higher priority item that is pending time-intensive search or review.

FOIA IA notice

Please note that this request is made after the enactment of Public Law No. 114-185, S. 337 (114th), the FOIA Improvement Act of 2016 (FOIA IA). The revised statute, as specified in the FOIA IA, applies to this request. FOIA IA § 6.

In particular, please note that:

1. you must provide electronic format documents, §§ 552(a)(2) (undesignated preceding text), 552(a)(2)(E) (undesignated following text), 552(a)(3)(B), and 552(a)(3)(C);
2. you may not specify an appeal duration less than 90 days, § 552(a)(6)(C)(A)(ii)(III)(aa);
3. you may not withhold any record unless "the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b), or disclosure is prohibited by law", § 552(a)(8)(A)(i);
4. you must segregate and partially release records where possible, §§ 552(a)(8)(A)(ii) and 552(b) (undesignated matter following (b)(9)); and
5. you may not claim deliberative process exemption for records more than 25 years old, § 552(b)(5).

"Record" defined

For the purposes of this request, except as otherwise specified, "record" means any agreement, appendix, application, assessment, attachment, checklist, circular, contract, correspondence (including but not limited to email), data management plan, documentation of search parameters, email, email attachment, form, guide, handbook, index of records, information consent agreement, information sharing agreement, instruction, interpretation, kit, management instruction, manual, memorandum, memorandum of understanding, notice, notification, opinion, order, plan, policy, policy statement, processing note, publication, recording, referral, report, request certification form, request detail report, response, rule, script, standard operating procedure, submission, talking point, training document, video, or related record described, regardless of publication status.

Anti-duplication exclusion

This request specifically excludes providing me with new copies of any records which have been already provided to me or published online for free (e.g. on the agency's online "reading room"), in full or identically to the form that would be provided to me under this request (i.e. with exactly the same format, redactions, and claimed exemptions).

This is only an exclusion on providing records under this request that are identical to those already provided to me or available online, and only if I am or have already been provided a link to the online version (if "available online").

This exclusion is only intended to limit unnecessary duplication or provision, not to limit what records are responsive to this request, nor to permit failure to disclose the location of a responsive record available online. If this exclusion would in any way increase the cost or duration to respond to this request, it is to be ignored to the extent it does so.

This request is to be treated as separate from all others that I have filed.

Forwarding: multi-agency / multi-component records

Please forward this request to the FOIA office of every agency component and subcomponent that may have responsive records for independent processing, with a copy to me.

This request includes any records held jointly by your agency in conjunction with any other agency and/or department, in interagency and/or interdepartmental systems of records, or by other agencies or third parties (including contractors) acting pursuant to any agreement with your agency.

Minimal redaction

Please note that the FOIA requires you to service the maximum extent of my request that can be done via e.g. partial redaction of exempt material. If you believe some portions of a record to be exempt because it contains Sensitive Security Information (SSI, 49 CFR 15 & 1520) or classified information (18 USC 798), please provide a version of the record redacted to the minimum extent necessary to remove exempt information (e.g. per 49 CFR 1520.15), along with adequate information to describe the reason for each specific exemption.

Redaction of repeatedly occurring content

When redacting any content that appears more than once in the full set of responsive records, please assign a replacement identifier for each, so that your redaction does not obfuscate the commonality.

For example, suppose that responsive records include the names Alice, Bob, Charlie, and Diego, and you determine that each of those names are redactable (e.g. under (b)(7)(C)). Rather than redacting each with only the text "(b)(7)(C)", replace each instance of "Alice" with "(b)(7)(C) - Person 1", each instance of "Bob" with "(b)(7)(C) - Person 2", etc. This e.g. withholds Alice's identity while not withholding the fact of commonality between occurrences.

Please use reasonably descriptive identifiers. For instance, if Elizabeth's name is not redacted but her personal cellphone number is, and that cellphone number appears e.g. both in her email signature and elsewhere by itself, it should in both cases be replaced with the same descriptive identifier, such as "[Alice's cell #]". For documents, this can be specified in the margins. If space or file format does not permit you to do so, then please use a short code (e.g. "#52"), and provide a table matching codes to full identifiers in your response letter.

If you make any such redactions, please keep but do not provide a table matching codes/identifiers to the redacted content, for use in case your redaction is examined or overturned on appeal or in litigation.

This is a form and format request pertaining to your process of redaction. Because it only applies in situations when you have already exercised the voluntary decision to alter the records from the original form requested, you have necessarily waived any objection to this section "creating a new record", since your act of redaction itself already "makes a new record" in that limited sense. This is only about how you do a redaction you have already decided to make.

This provision limits the scope of your reduction to the minimum possible extent, so that even if you decide to withhold some particular piece of content, you do not also withhold the fact of its being the same as the same content appearing elsewhere. That fact is itself metadata that is explicitly requested as part of this request.

If you decide that the mere fact of two pieces of content being the same is itself withholdable, then please redact it using an identifier that encodes only the reason, and provide a table matching those reason-only identifiers to justifications in your response letter.

Estimates and rolling updates

In order to help tailor my request, please provide an upfront estimate of the time and cost it will take to complete this request, broken down any significant factors that would affect cost to service, number of records in each category, and your estimate of how many records in the category are likely to be exempt.

Please provide me with incremental updates, with updated estimates for fulfillment of the remainder, rather than having the entirety of the request be blocked until fully completed.

No new records; electronic & original format

This request does not ask you to create new records.

If you determine that a response would require creating a new record that you do not want to create, please first contact me by email with an explanation of what records you have that would most closely match the information requested and might be acceptable substitutes, so that we can reasonably tailor the request.

In particular, I specifically request that you do not create new documents in response to this request that are modifications of a digital record, such as page-view images, print views, scans, or the like. No such creation or substitution is authorized by FOIA or the Privacy Act.

However, if the same or similar records are held in both electronic and paper formats, this request includes both the paper and electronic versions. The paper version and the digital version are distinct records, and each may contain distinct information such as handwritten or other markings on the paper copy and embedded metadata in the electronic version.

I specifically request both the original, electronic format record, and (if it contains any additional markings) the paper record.

To the extent that the native electronic format is proprietary or otherwise not in format accessible by widely available, open source software, I also request

1. an export of the proprietary format into a standard, open format, as described below, and
2. all proprietary software necessary to use and understand the original, proprietary format records.

Rehab Act § 508 compliance

In accordance with 5 USC 552(a)(3)(B & C) (E-FOIA), Rehabilitation Act § 508, and FOIA IA, I demand that you respond using original, native format, electronic, machine-processable, accessible, open, and well structured records to the maximum extent possible — for both the content of your response, and any communications about the request (such as response letters).

This means, e.g.:

1. native, original format records rather than PDFs or other conversions (see note above re providing both native electronic records and scans of paper records, if both exist);
2. individual files per distinct source record (e.g. one .msg file per email), named clearly using the record's identifier, title, and date, rather than a single file containing multiple concatenated records;
3. records compliant with the Rehabilitation Act § 508, 36 CFR Part 1194, and ISO 14289-1;
4. fully digital text records rather than scans, rasterizations, or OCR;
5. complete electronic records, as held on any computer (including phones, servers, backup servers, mail servers, workstations, etc.), including all headers and attachments, fully expanded e-mail addresses, full addresses for address "aliases", full lists for "distribution list" "aliases", all embedded and external metadata, complete bitwave digital copies of the original file, all file headers, and all other file content;
6. blackout rather than whitewash redactions, with every redaction marked with all exemption(s) claimed for that redaction;
7. digital redactions rather than black marker or rasterization;
8. lists and structured data as machine-processable spreadsheets (e.g. CSV, SQL, XSL) rather than word documents (e.g. DOC, PDF, TXT, RTF) or partial printouts (e.g. PDF);
9. open format records (e.g. PDF, AVI, MPG) rather than proprietary format records (e.g. WordPerfect, Microsoft Advanced Systems Format (ASF)) (note above re providing both original, proprietary format records and open format records);
10. scans rather than paper copies;
11. digital audio/video files rather than physical tapes;
12. upload to your Electronic Reading Room (or other publicly accessible server) rather than personal transfer (for all items other than the item requesting records related to me or my requests);
13. email or (S)FTP file transfer rather than CD;
14. email correspondence rather than physical mail; etc.

Compression, passwords, and uploading large files

Multiple files may be sent in a combined, compressed form using standard ZIP, TAR, GZIP, BZIP2, and/or RAR formats, or sent as separate files, at your discretion.

Do not use any password on any files, including ZIP files etc., unless a password was present in the original, native format (in which case, leave it unaltered, and send me the password).

If there are any files you prefer not to transfer by email (e.g. if they are >10MB), please upload them to me via the link listed below my signature. Doing so is secure, completely free to you, and I will be notified of the upload.

No physical "duplication"; inspection & direct access

Please note that this request does not request that you physically "duplicate" records, as I do not want you to create any paper or other physical copy for me — I only want electronic versions (or scans, for records that are not fully available in electronic form). As such, I expect there to be no duplication related costs.

Furthermore, I specifically request access for inspection of the records, including direct electronic access, in native format, to any electronic records.

Request tracking numbers and estimated completion date

Upon receipt, and in every followup response, please state your tracking number(s) for this request, as well as your specific estimated completion date. 5 USC 552(a)(7).

Communication about this request and method for responding

If you have any questions or updates about this request, please contact me by email, using only the MuckRock email address from which this request was sent. Please do not send responses to my personal or organizational email addresses unless I specifically request you to do so.

Please ensure that all of your responses comply with § 508 of the Rehabilitation Act, 36 CFR Part 1194, and ISO 14289-1.

In particular, please make all correspondence pursuant to this request — including notification and responsive records — by email, with native electronic format records, as specified in the request. I do not authorize you to send anything to me by physical mail unless I specifically state otherwise.

Do not respond using ZixCorp "Secure Mail" or any other method that "expires" records from being available. Use only actual email and direct attachments, or upload using the link below, unless I explicitly request otherwise.

"Reasonable description" and tailoring

Please note that a request need only be "reasonably described" in the sense that you understand what is requested and where you can find it. A request is not improper merely because of the amount of responsive records. I will not agree to a limitation premised on this request asking for voluminous records. However, I may agree to a limitation premised on the difficulty of finding particular records or categories thereof, the quality of records available, paper vs electronic format, or similar issues.

If you believe that any of the requested items are not reasonably described, that they would be overly burdensome to fulfill, or that you need any further information, please be specific about what you consider vague.

Please include in any response about "reasonably described", or any request for narrowing, specific questions I can answer that would clarify matters for you; specific descriptions of what parts of the request more or less burdensome (and why) that could serve as the basis for negotiating a narrower request; and any indexes, finding guides, record categories, record storage practices, likely places that responsive records may be located, or similar information that would allow me to understand your concerns and better tailor the request.

No fees agreed to; non-commercial status; journalistic & public interest waiver

I am not currently willing to pay for servicing this request. I may be willing to pay if it is necessary; please send a detailed explanation of the costs and their statutory justification, and service the maximum extent of the request that can be done for free in the meantime.

This request is a qualified request for journalistic, public interest purposes. As such, I request fully waived fees, including both public interest fee waiver and journalistic fee waiver.

1. Fiat Fiendum, Inc. (FF) is a 501(c)(3) nonprofit organization, organized for charitable, educational, scientific, and/or literary purposes.

This request is a part of FF's bona fide educational and scientific purpose activities, which are public interest purposes as a matter of law.

2. FF's actions in matters such as this request are non-commercial. My personal interest in the records is also non-commercial.

3. Both Fiat Fiendum as an organization, and I as an individual, are representatives of the news media and entitled to waiver of all search fees.

4. I intend and am able to host and publish all received records online to the general public at no charge, as well to publish highlights, analyses, summaries, commentaries, and other creative, original journalistic and scientific work about responsive records through multiple online publications, as part of Fiat Fiendum's work.

5. The records requested are of significant public interest, entitled to waiver of all duplication fees, since

a. they are requested for 501(c)(3) public interest purposes;
b. as above, I both am able and intend to disseminate the files widely;
c. they would contribute greatly to the public understanding of the operations & activities of your agency, in that they are records that directly describe agency operations & activities, as well as the issues and matters described at the top of this letter;
d. they are not currently readily available; and
e. they are likely to be requested by others.

6. As mentioned above, I am explicitly not asking for any physical duplication, but rather direct server-to-server file transfer or email (or posting on your website). FOIA authorizes "duplication" fees strictly limited to your agency's actual costs, and mandates that your agency use the cheapest available requested methods. I consider the actual costs for server-to-server file transfer to be reasonably estimated by, e.g., Amazon S3's pricing (<https://aws.amazon.com/s3/pricing/>).

7. I request that, pending fee waiver determination or appeal, you proceed with this request as if it were in the "other non-commercial requester" category.

Requester

This request is made on behalf of both myself, Sai (in personal capacity) and Fiat Fiendum, Inc. (in official capacity).

"Sai" is my full legal name.

Please note that I am partially blind. I use screen readers (such as VoiceOver and TalkBack). I also need to process documents using computer code (which requires machine-readable data, including metadata). These facts must be considered as part of the basis for, and right to, the form and format requests detailed above.

Sincerely,

Sai

President, Fiat Fiendum, Inc.

Fiat Fiendum is a 501(c)(3) tax-exempt corporation devoted to public interest journalism, government transparency and accountability, individuals' civil rights, and related issues.

Upload link and physical mail address are below. (Again, do not physically mail responsive records without my explicit request; send all responses electronically.)

Filed via MuckRock.com

E-mail (Preferred): 75106-65171935@requests.muckrock.com

Upload documents directly: <https://accounts.muckrock.com/accounts/login/>

url_auth_token=AAA23eAngPE73vtsj5jCgN3H1qhKU%3A1hAmPt%3ArYTbzi5Vzdfe5DDeblersDx1U&next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2Flogin%2F3Fnext%3D%252Faccounts%252Fagency_login%252Fdepartment-of-agriculture-60%252Fone-email-per-organization-unit-dated-2019-04-20-department-of-agriculture-75106%252F%253Femail%253DUSDAFOIA%252540ocio.usda.gov

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News

DEPT MR 75106

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

From: [Aponte, Camille - OCIO-CIO, Washington, DC](#)
To: 75085-78512781@requests.muckrock.com
Subject: RE: Acknowledgment of FOIA Request No. 2019-DA-00133-FP
Date: Wednesday, June 26, 2019 10:39:00 AM
Attachments: [image001.png](#)

Dear Mr. Sai:

I am following-up on this matter.

Your request has been put on hold and cannot be processed until the scope is clarified, as explained below. If your response is not received by Thursday, July 11, 2019, the above-referenced FOIA request will be administratively closed.



Camille C. Aponte-Rossini
 Government Information Specialist
 Departmental FOIA Office
 Office of the Chief Information Officer
 U.S. Department of Agriculture
 1400 Independence Ave., SW, Room 4105
 Washington, DC 20250
Desk: 202-694-5260
✉ Camille.Aponte@usda.gov

From: Aponte, Camille - OCIO-CIO, Washington, DC
Sent: Monday, June 17, 2019 4:49 PM
To: 75085-78512781@requests.muckrock.com
Cc: USDAFOIA - OCIO <USDAFOIA@ocio.usda.gov>
Subject: Acknowledgment of FOIA Request No. 2019-DA-00133-FP

Dear Mr. Sai:

This email acknowledges receipt of your attached Freedom of Information Act (FOIA) request to the U.S. Department of Agriculture (USDA), Departmental FOIA Office (DFO). Your request was received by this office on June 11, 2019. You have requested the following records, indicating "no time limit to this request, other than such limits as may be implicit in the ordinary retention policies of the [relevant] databases".

Part A:

[All] emails:

1. from or to any email address, used in official capacity, of any person who, within 30 days of the time of the email, worked for:

- i) agency headquarters,
- ii) agency public relations,
- iii) agency counsel's office, or
- iv) any other component that regularly communicates with members of the press;

and

2. containing any of the following phrases, regardless of capitalization or other minor variations:

- i) "on the record",
- ii) "off the record",
- iii) "on background",
- iv) "on deep background",
- v) "not for attribution",
- vi) "Chatham House rule",
- vii) "lobby terms", or
- viii) any synonymous phrases

Part B: [A]ll records relating to the fulfillment of this request, such as FOIA logs, documentation of searches, referral emails, etc.

Part C. [A]ll records relating to any complaint(s), FOIA request(s)/appeal(s), and/or Privacy Act request(s)/appeal(s) made by me. This includes, but is not limited to:

1. all records relating to the processing of my previous requests, complaints, etc;
2. all records containing the terms my name, email address(es), and other contact or identifying information, listed below my signature; and
3. all records containing any of my complaint, request or appeal identifiers.

The DFO is under the purview of the Office of the Chief Information Officer (OCIO) and serves as the focal point for USDA's FOIA program. The DFO provides coordination and ensures agency wide compliance with the FOIA. The DFO processes requests and appeals on behalf of the Office of the Secretary and Departmental Administration's (DA) components. For a complete listing of DA's components, please visit <http://www.dms.usda.gov/agencies.htm>.

Request Not Reasonably Described

Your request is too broad in scope or did not specifically identify the records which you are seeking. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. See 7 C.F.R. § 1.5(b). Where possible, a requester should supply specific information regarding dates, titles, names of individuals, names of offices, and name of agencies or organizations that may help identify the records. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records. In addition, in order for an email search to be conducted, you will need to identify USDA employees whom you believe are likely to maintain emails pertaining to the subject of your request. Unfortunately, we cannot conduct broad sweeping searches of all USDA email accounts.

Here, the request fails to reasonably describe the records sought, in the following manner:

Request Part A

Under Item 1, the request seeks a broadly sweeping search of all email accounts for unidentifiable users. The only potentially identifiable users would be employees of the Office of the General Counsel (OGC) and the Office of Communications (OC). It would be unduly burdensome for the

agency to determine all employees who are assigned to work at the headquarters location. “[A]ny person who, within 30 days of the time of the email” is a negligible qualifier because (a) the request fails to identify whose records are sought; and (b) even if the email users to be searched were identified or identifiable, it would require inquiry into the personnel records of every such employee to determine their term of employment. To make such determinations “would require the agency to examine and sift through a larger body of records to ensure that only . . . [those of certain employees] were included from any given year. This sort of sifting and analysis is not a burden that the FOIA imposes on federal agencies.” *Nat'l Sec. Counselors v. C.I.A.*, 960 F. Supp. 2d 101, 158 (D.D.C. 2013). Similarly, to identify any “other component that regularly communicates with members of the press” other than OC “is inherently burdensome because it . . . superimposes a layer of subjective analysis onto the agency’s response effort which the FOIA does not require.” *Id.*

Further, the request is not reasonably described because it does not describe any characterizable subject matter(s) or topic(s) that the requested records are supposed to pertain to. The provided search terms are generic, lack context, and are an insufficient description of what records are being sought. “Even where a request identif[ies] the documents requested with sufficient precision to enable the agency to identify them, the request may still fail to reasonably describe the records sought if it is so broad as to impose an unreasonable burden upon the agency.” *Id* at 163.

Request Part B:

Only such records as those that might have been created by the agency by the time of the first search for records may be furnished in response to this request. A subsequent request would have to be filed upon the closure of this request for all records relating to its fulfillment.

Request Part C:

This part of the request is a duplicate of what is requested under Part C of your FOIA request number 2019-DA-00132-F; as such, it will only be processed under such, if and once clarified.

Based on the forgoing, please provide the additional information that is lacking in order to clarify your request an enable a search to be conducted.

Fee Category & Fee Waiver

Provisions of the FOIA allow USDA to recover part of the cost of complying with your request. For purposes of fee assessment, you were categorized as a “all other” requester, pursuant to 7 CFR Appendix A to Subpart A of Part 1 Section (5)(d). For your review and information, a copy of the USDA FOIA Fee Schedule is attached. In accordance with 7 CFR Appendix A to Subpart A of Part 1 Section 6(a)(4), your fees shall be waived where the amount of the fee is \$25.00 or less.

You have requested a fee waiver. In support of this request, you assert the following:

This request is a qualified request for journalistic, public interest purposes. As such, I request fully waived fees, including both public interest fee waiver and journalistic fee waiver.

1. Fiat Fiendum, Inc. (FF) is a 501(c)(3) nonprofit organization, organized for charitable,

educational, scientific, and/or literary purposes. This request is a part of FF's bona fide educational and scientific purpose activities, which are public interest purposes as a matter of law.

2. FF's actions in matters such as this request are non-commercial. My personal interest in the records is also non-commercial.

3. Both Fiat Fiendum as an organization, and I as an individual, are representatives of the news media and entitled to waiver of all search fees.

4. I intend and am able to host and publish all received records online to the general public at no charge, as well to publish highlights, analyses, summaries, commentaries, and other creative, original journalistic and scientific work about responsive records through multiple online publications, as part of Fiat Fiendum's work.

5. The records requested are of significant public interest, entitled to waiver of all duplication fees, since

- a. they are requested for 501(c)(3) public interest purposes;
- b. as above, I both am able and intend to disseminate the files widely;
- c. they would contribute greatly to the public understanding of the operations & activities of your agency, in that they are records that directly describe agency operations & activities, as well as the issues and matters described at the top of this letter;
- d. they are not currently readily available; and
- e. they are likely to be requested by others.

You are asking to be categorized as a news media requester for purposes of fees. A news media requester is "any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." *Cause of Action v. FTC*, 799 F.3d 1108 (2015). The term "news" means information that is about current events or that would be of current interest to the public. *Id.* The requester's information-gathering activities are apparent through this and numerous other FOIA requests it has filed. However, the request does not describe firm plans to editorialize and publish distinct work. An internet search for the requesters Sai and Fiat Fiendum did not provide additional information that would support these points. Further, because the records request is not reasonably described, the DFO cannot characterize the event(s) or interest(s) responsive records might relate to. Based on the foregoing, the request to be classified as a media requester is denied.

With regard to a fee waiver, the USDA FOIA regulation (7 CFR Appendix A to Subpart A of Part 1 Section (6)(a)(1)) sets forth six factors USDA is required to evaluate in determining whether the applicable legal standard for a fee waiver has been met:

- i. The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government";
- ii. The informative values of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- iii. The contribution to an understanding of the subject by the general public likely to result from

disclosure: Whether the disclosure of the requested information will contribute to “public understanding”;

- iv. The significance of the contribution to public understanding: Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities;
- v. The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and,
- vi. The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.”

Upon review of your request and a careful consideration of the factors listed above, the DFO has determined to deny your request for a fee waiver because the information that you provided has not satisfied all six factors. Specifically, the request lacks sufficient information to address factors 1, 2, 3 and 4. As explained above, the request is not reasonably described; as such, it does not allow for a fee waiver analysis to be conducted under these factors. You will be charged in accordance with the attached USDA FOIA Fee Schedule. You may provide additional information in support of the factors that have not been met for reconsideration of the fee waiver.

You have the right to appeal, pursuant to 7 CFR §1.14, the denial of a preferred requester category and of a fee waiver. The appeal must be received within 90 days of the date of the denial letter. The written appeal must clearly indicate that a FOIA appeal is being made and should be sent to: Assistant Secretary for Administration, USDA, 1400 Independence Avenue, S.W., Whitten Building 209-A, Washington, D.C. 20250-0103. Your appeal should include a copy of the original request, the response to the request, and a statement of your reason for the appeal. To facilitate the processing of an appeal, the phrase “FOIA APPEAL” in capital letters should be placed on the front of the envelope.

Your request has been assigned **FOIA Case No. 2019-DA-00133-FP**. Please refer to this case number in any future correspondence. If you have any questions regarding this email or would like to discuss these matters, please contact me at 202-694-5260 or electronically at camille.aponte@usda.gov or USDAFOIA@ocio.usda.gov.

For additional information regarding USDA FOIA regulations and process, please refer to the information available on-line at www.dma.usda.gov/foia.

We appreciate the opportunity to assist you.

Sincerely,

USDA Departmental FOIA Office



Camille C. Aponte-Rossini
Government Information Specialist
Departmental FOIA Office
Office of the Chief Information Officer
U.S. Department of Agriculture
1400 Independence Ave., SW, Room 4105
Washington, DC 20250
Desk: 202-694-5260
✉ Camille.Aponce@usda.gov

From: 75085-78512781@requests.muckrock.com
 To: [USDAFOIA - OCIO](#)
 Subject: Freedom of Information Act Request: Agency HQ/PR emails with attribution designation phrases (Department of Agriculture)
 Date: Monday, June 10, 2019 11:41:07 AM

Department of Agriculture
 FOIA Office
 Room 408-W, Whitten Building
 1400 Independence Avenue, SW,
 Washington, DC 20250-0706

June 10, 2019

Dear Department of Agriculture:

This letter is a formal Freedom of Information Act request for the following records.

This request covers every Department of Agriculture component, including component agencies, departments, offices, OIGs, etc. See "# Forwarding; multi-agency / multi-component records" below.

Please note that this request imposes an affirmative obligation to take immediate steps to preserve responsive records against spoliation, including both any automated or routine record deletion and any act by an employee to delete such records.

This is an explicit evidence preservation demand, and the documents sought relate to ongoing and/or currently contemplated litigation.

Again, please note that this request is directed at BOTH Department of Agriculture itself, and ALL components thereof, including any component agencies.

At your discretion, you may either apply only a single tracking number for the whole request tree (acting for all subcomponents), or each subcomponents may apply its own tracking numbers.

In either case, you are expected to strictly comply with 5 USC 552(a)(6) and (a)(7).

In particular, you are expected to provide notice (by email) of all referrals made, and any other tracking numbers of which you are aware.

This request is part of an all-agency FOIA audit. Your performance will be tracked, analyzed, and published.

Any unlawful patterns or practices discovered in the course of this audit will be highlighted for public shaming, and will likely be litigated for permanent injunctions.

Any particularly good performance will, by the same token, be highlighted for public praise.

A. Agency HQ/PR emails with attribution designation phrases

I hereby request all emails:

1. from or to any email address, used in official capacity, of any person who, within 30 days of the time of the email, worked for:

- i) agency headquarters,
- ii) agency public relations,
- iii) agency counsel's office, or
- iv) any other component that regularly communicates with members of the press; and

2. containing any of the following phrases, regardless of capitalization or other minor variations:

- i) "on the record",
- ii) "off the record",
- iii) "on background",
- iv) "on deep background",
- v) "not for attribution",
- vi) "Chatham House rule",
- vii) "lobby terms", or
- viii) any synonymous phrases; and

3. that is in its original, native format (see below for details), as contained in either

- i) the agency's email / legal retention database(s) (such as Google Vault or similar service), or
- ii) the agency's email server(s) / database(s), searched directly.

This request explicitly treats as non-responsive any email records found by a search conducted by individual employee(s).

Only a search of both of the full databases described above, with the results in the form & format that is stored in that database (including all metadata, such as all email headers), will find records responsive to this request.

There is no time limit to this request, other than such limits as may be implicit in the ordinary retention policies of the databases described above. It includes all responsive records that exist at the time of this request, and all that exist at the time of search.

You may exclude portions of such databases to which you no longer have direct access due to NARA archival, such as physical backup tapes stored in the NARA mountain depository. This does not limit the search of any records contained in currently available databases (even if they may also be contained in an archived form).

I expect that conducting the *search and duplication* effort for this request should not be de minimis, since it is limited to centrally maintained databases, of which there should only be a couple per agency, which can be easily searched and for which there is no cost of duplication / export (since it is entirely electronic files).

However, if for some reason your email databases are unusually numerous, insufficiently under your control, or not capable of full text search (including both subject and body of the email), please email with details as to how your records are stored and why you cannot perform a centralized search. I will limit or otherwise tailor my request accordingly.

I do not care about any burden that stems from *review*, and will not consider any limitation based on that. Please be careful to distinguish the two in your response.

I also do not care that the responsive records may be voluminous, except in that we will of course coordinate on any technical issues such as server-to-server transfer, database & file formats, etc. We are ready and willing to receive multiple terabytes of responsive records, at no cost to you.

No limitation on this request will be considered or agreed to unless it is based on a clearly articulated record keeping or record searching issue, such as described above.

In particular, do not bother sending a knee jerk "too broad in scope" response.

This request is very clearly delineated such that search should be easy and the locations of records clearly identified.

If you would like to negotiate terms, we are open to doing so, but only if you provide actual reasons, not conclusory and inapposite statements.

 Fiat Fiendum FOIA template
 Version 5.0
 ###

FOIA template structure

All content after the version number line above, except for the contact details at the very end, is part of my standard FOIA request template and identical between all of my FOIA requests. The provisions below are generally applicable to all FOIA / Privacy Act requests that I make.

There is one exception: the contact details below my signature at the very bottom (provided by MuckRock) are different for each request. Please use the distinct contact details matching each request, to ensure that your responses are correctly tracked.

The template provisions specify e.g. additional requests relating to my FOIA/PA requests themselves, form and format, timing, redaction & review, rolling updates, § 508 compliance, identity, fee waiver, my identity, and the like. They apply to this request, but are not specific to it.

If anything in the request-specific section above explicitly overrides anything in this template section, the request-specific section controls. If there is any ambiguity about such an override, please ask me for clarification.

The version number above is provided to make it easier for you to process my requests. Since all content (except contact info) below identical version number lines is identical between my requests, you need track only the request-specific portions (at the top) and the latest version of my general provisions.

Please read each new version carefully, as updates generally contain substantive changes.

Template version updates

If you receive any FOIA request from me with a newer template version number than any pending prior FOIA requests from me, please replace the template portion of all prior requests with the updated version, treat the update as a clarification of and/or extension to the prior request, and process each updated request accordingly. Do not close the original request or change its request date. If you are permitted by law to refuse to honor such an update, and you choose to exercise that refusal, please process any differences between the new version and the prior version as a new FOIA request in its own right.

Additional FOIA requests

In addition to the records specified in the request-specific section above, I also request:

B. all records relating to the fulfillment of this request, such as FOIA logs, documentation of searches, referral emails, etc.

This part of the request is to be processed only after you have completed processing all of the above parts. This part does not request that you create any new record; rather, it requests the records that you will have created in processing the above parts, and will therefore exist before you conduct the search for this part. See *McGehee v. CIA*, 697 F. 2d 1095, 1100-05 (D.C. Cir. 1983) (agency must use time-of-search cut-off date, not time-of-request).

C. all records relating to any complaint(s), FOIA request(s)/appeal(s), and/or Privacy Act request(s)/appeal(s) made by me. This includes, but is not limited to:

1. all records relating to the processing my previous requests, complaints, etc;
2. all records containing the terms my name, email address(es), and other contact or identifying information, listed below my signature; and
3. all records containing any of my complaint, request or appeal identifiers.

Parts (B) and (C) must be processed only after you have processed the items above that line, i.e. such that at the time of the search, the records described will have already been created at the time you conduct the search. Part (C) must be processed after part (B) is completed.

Parts (B) and (C) may overlap with similar prior requests. However, the cut-off date is, at earliest, the date that you complete search on all of the above items. If you wish to administratively merge this request with a prior similar request, I consent on condition that you extend the cut-off date for the prior request, and provide rolling updates. Otherwise, you must treat this as a new request.

For all responsive records, I also request:

D.

1. all parts of the record (i.e. no portion of a record with some responsive portion may be considered "non-responsive");
2. all versions of the record, whether or not currently in use;
3. all record metadata, such as dates on which they were drafted, passed, went into effect, withdrawn, or similar events; person(s) / office(s) responsible; authors; IDs; revision numbers; etc.;
4. a detailed index of all claims of exemption/privilege, regardless of whether the record is claimed to be exempt in whole or in part; access to inspect the record directly, in its native electronic format; and
5. if any classification applies, mandatory declassification review (MDR) under E.O. 13526, and the result of the MDR, including any declassified records.

"All parts of the record" means that the "record" should be considered to be the most comprehensive record with any responsive portion. For instance:

- a) if any portion of an email is responsive, the entire contents of all email thread(s) to which that email belongs is also responsive (including attachments);
- b) if a record is part of a larger record, such as a responsive table that is in a chapter of a report, then the entire larger record (e.g. the full report) is responsive, together with any appendices, amendments, etc.;
- c) if a record is part of a book, the entire book is responsive;
- d) if a record is part of a database, all related database records are responsive;

etc.

"Related database records" has the technical meaning used in relational database management systems (such as SQL). It recursively includes all directly and indirectly related records (starting with all responsive records, include as responsive the full row of each, and recursively include as responsive all rows for which any responsive record has a foreign key or is referenced by a foreign key), together with the schema for all responsive records.

Items in part (D) should be prioritized at the same level as the record they apply to.

Timing

For all requests above, the "cut-off date" is, at the earliest, the date that you conduct the search.

The priority order listed above is only for items that may take extra time to respond to, and must not be taken as blocking response to an otherwise lower priority item that could be released more quickly than a higher priority item that is pending time-intensive search or review.

FOIA IA notice

Please note that this request is made after the enactment of Public Law No. 114-185, S. 337 (114th), the FOIA Improvement Act of 2016 (FOIA IA). The revised statute, as specified in the FOIA IA, applies to this request. FOIA IA § 6.

In particular, please note that:

1. you must provide electronic format documents, §§ 552(a)(2) (undesignated preceding text), 552(a)(2)(E) (undesignated following text), 552(a)(3)(B), and 552(a)(3)(C);
2. you may not specify an appeal duration less than 90 days, § 552(a)(6)(C)(A)(i)(III)(aa);
3. you may not withhold any record unless "the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b), or

disclosure is prohibited by law", § 552(a)(8)(A)(i);

4. you must segregate and partially release records where possible, §§ 552(a)(8)(A)(ii) and 552(b) (undesignated matter following (b)(9)); and
5. you may not claim deliberative process exemption for records more than 25 years old, § 552(b)(5).

"Record" defined

For the purposes of this request, except as otherwise specified, "record" means any agreement, appendix, application, assessment, attachment, checklist, circular, contract, correspondence (including but not limited to email), data management plan, documentation of search parameters, email, email attachment, form, guide, handbook, index of records, information consent agreement, information sharing agreement, instruction, interpretation, kit, management instruction, manual, memorandum, memorandum of understanding, notice, notification, opinion, order, plan, policy, policy statement, processing note, publication, recording, referral, report, request certification form, request detail report, response, rule, script, standard operating procedure, submission, talking point, training document, video, or related record described, regardless of publication status.

Anti-duplication exclusion

This request specifically excludes providing me with new copies of any records which have been already provided to me or published online for free (e.g. on the agency's online "reading room"), in full or identically to the form that would be provided to me under this request (i.e. with exactly the same format, redactions, and claimed exemptions).

This is only an exclusion on providing records under this request that are identical to those already provided to me or available online, and only if I am or have already been provided a link to the online version (if "available online").

This exclusion is only intended to limit unnecessary duplication or provision, not to limit what records are responsive to this request, nor to permit failure to disclose the location of a responsive record available online. If this exclusion would in any way increase the cost or duration to respond to this request, it is to be ignored to the extent it does so.

This request is to be treated as separate from all others that I have filed.

Forwarding; multi-agency / multi-component records

Please forward this request to the FOIA office of every agency component and subcomponent that may have responsive records for independent processing, with a copy to me.

This request includes any records held jointly by your agency in conjunction with any other agency and/or department, in interagency and/or interdepartmental systems of records, or by other agencies or third parties (including contractors) acting pursuant to any agreement with your agency.

Minimal redaction

Please note that the FOIA requires you to service the maximum extent of my request that can be done via e.g. partial redaction of exempt material. If you believe some portions of a record to be exempt because it contains Sensitive Security Information (SSI, 49 CFR 15 & 1520) or classified information (18 USC 798), please provide a version of the record redacted to the minimum extent necessary to remove exempt information (e.g. per 49 CFR 1520.15), along with adequate information to describe the reason for each specific exemption.

Redaction of repeatedly occurring content

When redacting any content that appears more than once in the full set of responsive records, please assign a replacement identifier for each, so that your redaction does not obfuscate the commonality.

For example, suppose that responsive records include the names Alice, Bob, Charlie, and Diego, and you determine that each of those names are redactable (e.g. under (b)(7)(C)). Rather than redacting each with only the text "(b)(7)(C)", replace each instance of "Alice" with "(b)(7)(C) - Person 1", each instance of "Bob" with "(b)(7)(C) - Person 2", etc. This e.g. withholds Alice's identity while not withholding the fact of commonality between occurrences.

Please use reasonably descriptive identifiers. For instance, if Elizabeth's name is not redacted but her personal cellphone number is, and that cellphone number appears e.g. both in her email signature and elsewhere by itself, it should in both cases be redacted with the same descriptive identifier, such as "[Alice's cell #]". For documents, this can be specified in the margins. If space or file format does not permit you to do so, then please use a short code (e.g. "[#52]", and provide a table matching codes to full identifiers in your response letter.

If you make any such redactions, please keep but do not provide a table matching codes/identifiers to the redacted content, for use in case your redaction is examined or overturned on appeal or in litigation.

This is a form and format request pertaining to your process of redaction. Because it only applies in situations when you have already exercised the voluntary decision to alter the records from the original form requested, you have necessarily waived any objection to this section "creating a new record", since your act of redaction itself already "makes a new record" in that limited sense. This is only about how you do a redaction you have already decided to make.

This provision limits the scope of your redaction to the minimum possible extent, so that even if you decide to withhold some particular piece of content, you do not also withhold the fact of its being the same as the same content appearing elsewhere. That fact is itself metadata that is explicitly requested as part of this request.

If you decide that the mere fact of two pieces of content being the same is itself withholdable, then please redact it using an identifier that encodes only the reason, and provide a table matching those reason-only identifiers to justifications in your response letter.

Estimates and rolling updates

In order to help tailor my request, please provide an upfront estimate of the time and cost it will take to complete this request, broken down any significant factors that would affect cost to service, number of records in each category, and your estimate of how many records in the category are likely to be exempt.

Please provide me with incremental updates, with updated estimates for fulfillment of the remainder, rather than having the entirety of the request be blocked until fully completed.

No new records; electronic & original format

This request does not ask you to create new records.

If you determine that a response would require creating a new record that you do not want to create, please first contact me by email with an explanation of what records you have that would most closely match the information requested and might be acceptable substitutes, so that we can reasonably tailor the request.

In particular, I specifically request that you do not create new documents in response to this request that are modifications of a digital record, such as page-view images, print views, scans, or the like. No such creation or substitution is authorized by FOIA or the Privacy Act.

However, if the same or similar records are held in both electronic and paper formats, this request includes both the paper and electronic versions. The paper version and the digital version are distinct records, and each may contain distinct information such as handwritten or other markings on the paper copy and embedded metadata in the electronic version.

I specifically request both the original, electronic format record, and (if it contains any additional markings) the paper record.

To the extent that the native electronic format is proprietary or otherwise not in format accessible by widely available, open source software, I also request

1. an export of the proprietary format into a standard, open format, as described below, and
2. all proprietary software necessary to use and understand the original, proprietary format records.

Rehab Act § 508 compliance

In accordance with 5 USC 552(a)(3)(B & C) (E-FOIA), Rehabilitation Act § 508, and FOIA IA, I demand that you respond using original, native format, electronic, machine-

processable, accessible, open, and well structured records to the maximum extent possible — for both the content of your response, and any communications about the request (such as response letters).

This means, e.g.:

1. native, original format records rather than PDFs or other conversions (see note above re providing both native electronic records and scans of paper records, if both exist);
2. individual files per distinct source record (e.g. one .msg file per email), named clearly using the record's identifier, title, and date, rather than a single file containing multiple concatenated records;
3. records compliant with the Rehabilitation Act § 508, 36 CFR Part 1194, and ISO 14289-1;
4. fully digital text records rather than scans, rasterizations, or OCR;
5. complete electronic records, as held on any computer (including phones, servers, backup servers, mail servers, workstations, etc.), including all headers and attachments, fully expanded e-mail addresses, full addresses for address "aliases", full lists for "distribution list" aliases, all embedded and external metadata, complete bitwise digital copies of the original file, all file headers, and all other file content;
6. blackout rather than whiteout redactions, with every redaction marked with all exemption(s) claimed for that redaction;
7. digital redactions rather than black marker or rasterization;
8. lists and structured data as machine-processable spreadsheets (e.g. CSV, SQL, XSL) rather than word documents (e.g. DOC, PDF, TXT, RTF) or partial printouts (e.g. PDF),
9. open format records (e.g. PDF, AVI, MPG) rather than proprietary format records (e.g. WordPerfect, Microsoft Advanced Systems Format (ASF)) (note above re providing both original, proprietary format records and open format records);
10. scans rather than paper copies;
11. digital audio/video files rather than physical tapes;
12. upload to your Electronic Reading Room (or other publicly accessible server) rather than personal transfer (for all items other than the item requesting records related to me or my requests);
13. email or (S)FTP file transfer rather than CD;
14. email correspondence rather than physical mail; etc.

Compression, passwords, and uploading large files

Multiple files may be sent in a combined, compressed form using standard ZIP, TAR, GZIP, BZIP2, and/or RAR formats, or sent as separate files, at your discretion.

Do not use any password on any files, including ZIP files etc., unless a password was present in the original, native format (in which case, leave it unaltered, and send me the password).

If there are any files you prefer not to transfer by email (e.g. if they are >10MB), please upload them to me via the link listed below my signature. Doing so is secure, completely free to you, and I will be notified of the upload.

No physical "duplication"; inspection & direct access

Please note that this request does not request that you physically "duplicate" records, as I do not want you to create any paper or other physical copy for me — I only want electronic versions (or scans, for records that are not fully available in electronic form). As such, I expect there to be no duplication related costs.

Furthermore, I specifically request access for inspection of the records, including direct electronic access, in native format, to any electronic records.

Request tracking numbers and estimated completion date

Upon receipt, and in every followup response, please state your tracking number(s) for this request, as well as your specific estimated completion date. 5 USC 552(a)(7).

Communication about this request and method for responding

If you have any questions or updates about this request, please contact me by email, using only the MuckRock email address from which this request was sent. Please do not send responses to my personal or organizational email addresses unless I specifically request you to do so.

Please ensure that all of your responses comply with § 508 of the Rehabilitation Act, 36 CFR Part 1194, and ISO 14289-1.

In particular, please make all correspondence pursuant to this request — including notification and responsive records — by email, with native electronic format records, as specified in the request. I do not authorize you to send anything to me by physical mail unless I specifically state otherwise.

Do not respond using ZixCorp "Secure Mail" or any other method that "expires" records from being available. Use only actual email and direct attachments, or upload using the link below, unless I explicitly request otherwise.

"Reasonable description" and tailoring

Please note that a request need only be "reasonably described" in the sense that you understand what is requested and where you can find it. A request is not improper merely because of the amount of responsive records. I will not agree to a limitation premised on this request asking for voluminous records. However, I may agree to a limitation premised on the difficulty of finding particular records or categories thereof, the quality of records available, paper vs electronic format, or similar issues.

If you believe that any of the requested items are not reasonably described, that they would be overly burdensome to fulfill, or that you need any further information, please be specific about what you consider vague.

Please include in any response about "reasonably described", or any request for narrowing, specific questions I can answer that would clarify matters for you; specific descriptions of what parts of the request more or less burdensome (and why) that could serve as the basis for negotiating a narrower request; and any indexes, finding guides, record categories, record storage practices, likely places that responsive records may be located, or similar information that would allow me to understand your concerns and better tailor the request.

No fees agreed to; non-commercial status; journalistic & public interest waiver

I am not currently willing to pay for servicing this request. I may be willing to pay if it is necessary; please send a detailed explanation of the costs and their statutory justification, and service the maximum extent of the request that can be done for free in the meantime.

This request is a qualified request for journalistic, public interest purposes. As such, I request fully waived fees, including both public interest fee waiver and journalistic fee waiver.

1. Fiat Fiendum, Inc. (FF) is a 501(c)(3) nonprofit organization, organized for charitable, educational, scientific, and/or literary purposes.

This request is a part of FF's bona fide educational and scientific purpose activities, which are public interest purposes as a matter of law.

2. FF's actions in matters such as this request are non-commercial. My personal interest in the records is also non-commercial.

3. Both Fiat Fiendum as an organization, and I as an individual, are representatives of the news media and entitled to waiver of all search fees.

4. I intend and am able to host and publish all received records online to the general public at no charge, as well to publish highlights, analyses, summaries, commentaries, and other creative, original journalistic and scientific work about responsive records through multiple online publications, as part of Fiat Fiendum's work.

5. The records requested are of significant public interest, entitled to waiver of all duplication fees, since a. they are requested for 501(c)(3) public interest purposes;

b. as above, I both am able and intend to disseminate the files widely;

c. they would contribute greatly to the public understanding of the operations & activities of your agency, in that they are records that directly describe agency operations & activities, as well as the issues and matters described at the top of this letter;

- d. they are not currently readily available; and
- e. they are likely to be requested by others.

6. As mentioned above, I am explicitly not asking for any physical duplication, but rather direct server-to-server file transfer or email (or posting on your website). FOIA authorizes "duplication" fees strictly limited to your agency's actual costs, and mandates that your agency use the cheapest available requested methods. I consider the actual costs for server-to-server file transfer to be reasonably estimated by, e.g., Amazon S3's pricing (<https://aws.amazon.com/s3/pricing/>).

7. I request that, pending fee waiver determination or appeal, you proceed with this request as if it were in the "other non-commercial requester" category.

Requester

This request is made on behalf of both myself, Sai (in personal capacity) and Fiat Fiendum, Inc. (in official capacity).

"Sai" is my full legal name.

Please note that I am partially blind. I use screen readers (such as VoiceOver and TalkBack). I also need to process documents using computer code (which requires machine-readable data, including metadata). These facts must be considered as part of the basis for, and right to, the form and format requests detailed above.

Sincerely,

Sai

President, Fiat Fiendum, Inc.

Fiat Fiendum is a 501(c)(3) tax-exempt corporation devoted to public interest journalism, government transparency and accountability, individuals' civil rights, and related issues.

Upload link and physical mail address are below. (Again, do not physically mail responsive records without my explicit request; send all responses electronically.)

Filed via MuckRock.com

E-mail (Preferred): 75085-78512781@requests.muckrock.com

Upload documents directly: https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fdepartment-of-agriculture-60%252Fagency-hqpr-emails-with-attribution-designation-phrases-department-of-agriculture-75085%252F%253Femail%253DUSDAFOIA%252540ocio.usda.gov&url_auth_token=AAAZ3eAmgPE73vt5jCgN3H1qhKU%3A1haMPt%3ArYTbzi5Vzdfve5DDeblersdOxIU
Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News
DEPT MR 75085
411A Highland Ave
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

From: 78486-60502961@requests.muckrock.com
 To: USAFOIA - OCIO
 Subject: Freedom of Information Act Request: Chief FOIA officer's desktops (U.S. Department Of Agriculture, Office of the Secretary)
 Date: Sunday, August 4, 2019 6:25:38 PM

U.S. Department Of Agriculture, Office of the Secretary
 FOIA Office
 South Building, Room 4104
 1400 Independence Avenue, SW
 Washington, DC, DC 20250-0706

August 4, 2019

Dear U.S. Department Of Agriculture, Office of the Secretary:

This letter is a formal Freedom of Information Act request for the following records.

This request covers every U.S. Department Of Agriculture, Office of the Secretary component, including component agencies, departments, offices, OIGs, etc., that has a Chief FOIA Officer, Chief Privacy Officer, or substantially equivalent position. See "# Forwarding; multi-agency / multi-component records" below.

Please note that this request imposes an affirmative obligation to take immediate steps to preserve responsive records against spoliation, including both any automated or routine record deletion and any act by an employee to delete such records.

This is an explicit evidence preservation demand, and the documents sought relate to ongoing and/or currently contemplated litigation.

Again, please note that this request is directed at BOTH U.S. Department Of Agriculture, Office of the Secretary itself, and ALL components thereof, including any component agencies.

At your discretion, you may either apply only a single tracking number for the whole request tree (acting for all subcomponents), or each subcomponents may apply its own tracking numbers.

In either case, you are expected to strictly comply with 5 USC 552(a)(6) and (a)(7).

In particular, you are expected to provide notice (by email) of all referrals made, and any other tracking numbers of which you are aware.

This request is part of an all-agency FOIA audit. Your performance will be tracked, analyzed, and published.

Any unlawful patterns or practices discovered in the course of this audit will be highlighted for public shaming, and will likely be litigated for permanent injunctions.

Any particularly good performance will, by the same token, be highlighted for public praise.

A. Chief FOIA Officers' desktops

I hereby request:

1. for the component's
 - a) Chief FOIA Officer,
 - b) Chief Privacy Officer, and
 - c) any substantially equivalent component official

("Officer"):

2. the entire content of
 - a) the Officer's physical desktops, i.e. everything on the actual desk(s) where they work

I) including all other office surfaces, e.g. cabinets, tables, in/out boxes, shelves, etc in the Officer's office(s)

II) excluding:

- i) computers (including desktop, laptop, and phone);
- ii) USB drives;
- iii) generic office supplies, i.e. any item that could be purchased off the shelf at a store such as Office Depot in identical form by a member of the general public;
- iv) tear-off daily flip calendars;
- v) purely personal capacity items;
- vi) keys;
- vii) anything within a fully enclosed hard sided container (e.g. exclude the contents of a desk / cabinet drawer, lockbox, or picture frame — but envelopes laying on a desk [and their contents], items in open-ended organizers, etc are not excluded);
- viii) books or hard-bound booklets, except for the front and back covers; and
- ix) CDs or DVDs, except for the label (i.e. what is captured when you place the disc on a flatbed scanner); and

III) formatted as 600 DPI color scans to PDF, one PDF per item (named logically based on the item), run through Adobe Acrobat Pro's "enhance scanned PDF" tool with the settings:

- * recognize text on
- * all pages
- * apply adaptive compression: grayscale JPEG2000, monochrome JBIG2 (lossless), maximum quality
- * output: searchable image, document language set to the document's actual language
- * filters: deskew on, background removal off, descreen off, text sharpening off;

and

- b) the Officer's computer desktop(s), i.e. the "desktop folder" of their account on every computer that they use in official capacity

I) in the exact original file format as stored on the computer, encapsulated into a .ZIP or .TAR.GZ archive set to preserve all metadata and folder structure;

3. as the above exist at the time anyone in the component first learns of this request.

(I.e., no clearing out the desk before searching it. You may of course continue to use the office normally, but this request creates a hold for its exact content at that one snapshot in time.)

4. For hold preservation validation purposes, please take and provide digital photos of the Officer's entire office, showing all items in plain view at the time this request was received.

The search time for this request should be zero, since all responsive records are literally already in plain view in the Officer's office.

This request is very clearly delineated such that search should be easy and the locations of records clearly identified.

If you would like to negotiate terms, we are open to doing so, but only if you provide actual reasons, not conclusory and inapposite statements.

###

Fiat Fiendum FOIA template
 Version 5.0

###

FOIA template structure

All content after the version number line above, except for the contact details at the very end, is part of my standard FOIA request template and identical between all of my FOIA requests. The provisions below are generally applicable to all FOIA / Privacy Act requests that I make.

There is one exception: the contact details below my signature at the very bottom (provided by MuckRock) are different for each request. Please use the distinct contact details matching each request, to ensure that your responses are correctly tracked.

The template provisions specify e.g. additional requests relating to my FOIA/PA requests themselves, form and format, timing, redaction & review, rolling updates, § 508 compliance, identity, fee waiver, my identity, and the like. They apply to this request, but are not specific to it.

If anything in the request-specific section above explicitly overrides anything in this template section, the request-specific section controls. If there is any ambiguity about such an override, please ask me for clarification.

The version number above is provided to make it easier for you to process my requests. Since all content (except contact info) below identical version number lines is identical between my requests, you need track only the request-specific portions (at the top) and the latest version of my general provisions.

Please read each new version carefully, as updates generally contain substantive changes.

Template version updates

If you receive any FOIA request from me with a newer template version number than any pending prior FOIA requests from me, please replace the template portion of all prior requests with the updated version, treat the update as a clarification of and/or extension to the prior request, and process each updated request accordingly. Do not close the original request or change its request date. If you are permitted by law to refuse to honor such an update, and you choose to exercise that refusal, please process any differences between the new version and the prior version as a new FOIA request in its own right.

Additional FOIA requests

In addition to the records specified in the request-specific section above, I also request:

B. all records relating to the fulfillment of this request, such as FOIA logs, documentation of searches, referral emails, etc.

This part of the request is to be processed only after you have completed processing all of the above parts. This part does not request that you create any new record; rather, it requests the records that you will have created in processing the above parts, and will therefore exist before you conduct the search for this part. See *McGehee v. CIA*, 697 F. 2d 1095, 1100-05 (D.C. Cir. 1983) (agency must use time-of-search cut-off date, not time-of-request).

C. all records relating to any complaint(s), FOIA request(s)/appeal(s), and/or Privacy Act request(s)/appeal(s) made by me. This includes, but is not limited to:

1. all records relating to the processing my previous requests, complaints, etc;
2. all records containing the terms my name, email address(es), and other contact or identifying information, listed below my signature; and
3. all records containing any of my complaint, request or appeal identifiers.

Parts (B) and (C) must be processed only after you have processed the items above that line, i.e. such that at the time of the search, the records described will have already been created at the time you conduct the search. Part (C) must be processed after part (B) is completed.

Parts (B) and (C) may overlap with similar prior requests. However, the cut-off date is, at earliest, the date that you complete search on all of the above items. If you wish to administratively merge this request with a prior similar request, I consent on condition that you extend the cut-off date for the prior request, and provide rolling updates. Otherwise, you must treat this as a new request.

For all responsive records, I also request:

D.

1. all parts of the record (i.e. no portion of a record with some responsive portion may be considered "non-responsive");
2. all versions of the record, whether or not currently in use;
3. all record metadata, such as dates on which they were drafted, passed, went into effect, withdrawn, or similar events; person(s) / office(s) responsible; authors; IDs; revision numbers; etc.;
4. a detailed index of all claims of exemption/privilege, regardless of whether the record is claimed to be exempt in whole or in part; access to inspect the record directly, in its native electronic format; and
5. if any classification applies, mandatory declassification review (MDR) under E.O. 13526, and the result of the MDR, including any declassified records.

"All parts of the record" means that the "record" should be considered to be the most comprehensive record with any responsive portion. For instance:

- a) if any portion of an email is responsive, the entire contents of all email thread(s) to which that email belongs is also responsive (including attachments);
- b) if a record is part of a larger record, such as a responsive table that is in a chapter of a report, then the entire larger record (e.g. the full report) is responsive, together with any appendices, amendments, etc.;
- c) if a record is part of a book, the entire book is responsive;
- d) if a record is part of a database, all related database records are responsive;

etc.

"Related database records" has the technical meaning used in relational database management systems (such as SQL). It recursively includes all directly and indirectly related records (starting with all responsive records, include as responsive the full row of each, and recursively include as responsive all rows for which any responsive record has a foreign key or is referenced by a foreign key), together with the schema for all responsive records.

Items in part (D) should be prioritized at the same level as the record they apply to.

Timing

For all requests above, the "cut-off date" is, at the earliest, the date that you conduct the search.

The priority order listed above is only for items that may take extra time to respond to, and must not be taken as blocking response to an otherwise lower priority item that could be released more quickly than a higher priority item that is pending time-intensive search or review.

FOIA IA notice

Please note that this request is made after the enactment of Public Law No. 114-185, S. 337 (114th), the FOIA Improvement Act of 2016 (FOIA IA). The revised statute, as specified in the FOIA IA, applies to this request. FOIA IA § 6.

In particular, please note that:

1. you must provide electronic format documents, §§ 552(a)(2) (undesignated preceding text), 552(a)(2)(E) (undesignated following text), 552(a)(3)(B), and 552(a)(3)(C);
2. you may not specify an appeal duration less than 90 days, § 552(a)(6)(C)(A)(i)(II)(aa);
3. you may not withhold any record unless "the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b), or disclosure is prohibited by law"; § 552(a)(8)(A)(i);
4. you must segregate and partially release records where possible, §§ 552(a)(8)(A)(ii) and 552(b) (undesignated matter following (b)(9)); and
5. you may not claim deliberative process exemption for records more than 25 years old, § 552(b)(5).

"Record" defined

For the purposes of this request, except as otherwise specified, "record" means any agreement, appendix, application, assessment, attachment, checklist, circular, contract, correspondence (including but not limited to email), data management plan, documentation of search parameters, email, email attachment, form, guide, handbook, index of records,

information consent agreement, information sharing agreement, instruction, interpretation, kit, management instruction, manual, memorandum, memorandum of understanding, notice, notification, opinion, order, plan, policy, policy statement, processing note, publication, recording, referral, report, request certification form, request detail report, response, rule, script, standard operating procedure, submission, talking point, training document, video, or related record described, regardless of publication status.

Anti-duplication exclusion

This request specifically excludes providing me with new copies of any records which have been already provided to me or published online for free (e.g. on the agency's online "reading room"), in full or identically to the form that would be provided to me under this request (i.e. with exactly the same format, redactions, and claimed exemptions).

This is only an exclusion on providing records under this request that are identical to those already provided to me or available online, and only if I am or have already been provided a link to the online version (if "available online").

This exclusion is only intended to limit unnecessary duplication or provision, not to limit what records are responsive to this request, nor to permit failure to disclose the location of a responsive record available online. If this exclusion would in any way increase the cost or duration to respond to this request, it is to be ignored to the extent it does so.

This request is to be treated as separate from all others that I have filed.

Forwarding; multi-agency / multi-component records

Please forward this request to the FOIA office of every agency component and subcomponent that may have responsive records for independent processing, with a copy to me.

This request includes any records held jointly by your agency in conjunction with any other agency and/or department, in interagency and/or interdepartmental systems of records, or by other agencies or third parties (including contractors) acting pursuant to any agreement with your agency.

Minimal redaction

Please note that the FOIA requires you to service the maximum extent of my request that can be done via e.g. partial redaction of exempt material. If you believe some portions of a record to be exempt because it contains Sensitive Security Information (SSI, 49 CFR 15 & 1520) or classified information (18 USC 798), please provide a version of the record redacted to the minimum extent necessary to remove exempt information (e.g. per 49 CFR 1520.15), along with adequate information to describe the reason for each specific exemption.

Redaction of repeatedly occurring content

When redacting any content that appears more than once in the full set of responsive records, please assign a replacement identifier for each, so that your redaction does not obfuscate the commonality.

For example, suppose that responsive records include the names Alice, Bob, Charlie, and Diego, and you determine that each of those names are redactable (e.g. under (b)(7)(C)). Rather than redacting each with only the text "(b)(7)(C)", replace each instance of "Alice" with "(b)(7)(C) - Person 1", each instance of "Bob" with "(b)(7)(C) - Person 2", etc. This e.g. withholds Alice's identity while not withholding the fact of commonality between occurrences.

Please use reasonably descriptive identifiers. For instance, if Elizabeth's name is not redacted but her personal cellphone number is, and that cellphone number appears e.g. both in her email signature and elsewhere by itself, it should in both cases be redacted with the same descriptive identifier, such as "[Alice's cell #]". For documents, this can be specified in the margins. If space or file format does not permit you to do so, then please use a short code (e.g. "[#52]", and provide a table matching codes to full identifiers in your response letter.

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In order to help tailor my request, please provide an upfront estimate of the time and cost it will take to complete this request, broken down any significant factors that would affect cost to service, number of records in each category, and your estimate of how many records in the category are likely to be exempt.

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In particular, I specifically request that you do not create new documents in response to this request that are modifications of a digital record, such as page-view images, print views, scans, or the like. No such creation or substitution is authorized by FOIA or the Privacy Act.

However, if the same or similar records are held in both electronic and paper formats, this request includes both the paper and electronic versions. The paper version and the digital version are distinct records, and each may contain distinct information such as handwritten or other markings on the paper copy and embedded metadata in the electronic version.

I specifically request both the original, electronic format record, and (if it contains any additional markings) the paper record.

To the extent that the native electronic format is proprietary or otherwise not in format accessible by widely available, open source software, I also request

1. an export of the proprietary format into a standard, open format, as described below, and
2. all proprietary software necessary to use and understand the original, proprietary format records.

Rehab Act § 508 compliance

In accordance with 5 USC 552(a)(3)(B & C) (E-FOIA), Rehabilitation Act § 508, and FOIA 1A, I demand that you respond using original, native format, electronic, machine-processable, accessible, open, and well structured records to the maximum extent possible — for both the content of your response, and any communications about the request (such as response letters).

This means, e.g.:

1. native, original format records rather than PDFs or other conversions (see note above re providing both native electronic records and scans of paper records, if both exist);
2. individual files per distinct source record (e.g. one .msg file per email), named clearly using the record's identifier, title, and date, rather than a single file containing multiple concatenated records;
3. records compliant with the Rehabilitation Act § 508, 36 CFR Part 1194, and ISO 14289-1;
4. fully digital text records rather than scans, rasterizations, or OCR;
5. complete electronic records, as held on any computer (including phones, servers, backup servers, mail servers, workstations, etc.), including all headers and attachments, fully expanded e-mail addresses, full addresses for address "aliases", full lists for "distribution list" aliases, all embedded and external metadata, complete bitwise digital copies of the original file, all file headers, and all other file content;
6. blackout rather than whiteout redactions, with every redaction marked with all exemption(s) claimed for that redaction;

7. digital redactions rather than black marker or rasterization;
8. lists and structured data as machine-processable spreadsheets (e.g. CSV, SQL, XSL) rather than word documents (e.g. DOC, PDF, TXT, RTF) or partial printouts (e.g. PDF),
9. open format records (e.g. PDF, AVI, MPG) rather than proprietary format records (e.g. WordPerfect, Microsoft Advanced Systems Format (ASF)) (note above re providing both original, proprietary format records and open format records);
10. scans rather than paper copies;
11. digital audio/video files rather than physical tapes;
12. upload to your Electronic Reading Room (or other publicly accessible server) rather than personal transfer (for all items other than the item requesting records related to me or my requests);
13. email or (S)FTP file transfer rather than CD;
14. email correspondence rather than physical mail; etc.

Compression, passwords, and uploading large files

Multiple files may be sent in a combined, compressed form using standard ZIP, TAR, GZIP, BZIP2, and/or RAR formats, or sent as separate files, at your discretion.

Do not use any password on any files, including ZIP files etc., unless a password was present in the original, native format (in which case, leave it unaltered, and send me the password).

If there are any files you prefer not to transfer by email (e.g. if they are >10MB), please upload them to me via the link listed below my signature. Doing so is secure, completely free to you, and I will be notified of the upload.

No physical "duplication"; inspection & direct access

Please note that this request does not request that you physically "duplicate" records, as I do not want you to create any paper or other physical copy for me — I only want electronic versions (or scans, for records that are not fully available in electronic form). As such, I expect there to be no duplication related costs.

Furthermore, I specifically request access for inspection of the records, including direct electronic access, in native format, to any electronic records.

Request tracking numbers and estimated completion date

Upon receipt, and in every followup response, please state your tracking number(s) for this request, as well as your specific estimated completion date. 5 USC 552(a)(7).

Communication about this request and method for responding

If you have any questions or updates about this request, please contact me by email, using only the MuckRock email address from which this request was sent. Please do not send responses to my personal or organizational email addresses unless I specifically request you to do so.

Please ensure that all of your responses comply with § 508 of the Rehabilitation Act, 36 CFR Part 1194, and ISO 14289-1.

In particular, please make all correspondence pursuant to this request — including notification and responsive records — by email, with native electronic format records, as specified in the request. I do not authorize you to send anything to me by physical mail unless I specifically state otherwise.

Do not respond using ZixCorp "Secure Mail" or any other method that "expires" records from being available. Use only actual email and direct attachments, or upload using the link below, unless I explicitly request otherwise.

"Reasonable description" and tailoring

Please note that a request need only be "reasonably described" in the sense that you understand what is requested and where you can find it. A request is not improper merely because of the amount of responsive records. I will not agree to a limitation premised on this request asking for voluminous records. However, I may agree to a limitation premised on the difficulty of finding particular records or categories thereof, the quality of records available, paper vs electronic format, or similar issues.

If you believe that any of the requested items are not reasonably described, that they would be overly burdensome to fulfill, or that you need any further information, please be specific about what you consider vague.

Please include in any response about "reasonably described", or any request for narrowing, specific questions I can answer that would clarify matters for you; specific descriptions of what parts of the request more or less burdensome (and why) that could serve as the basis for negotiating a narrower request; and any indexes, finding guides, record categories, record storage practices, likely places that responsive records may be located, or similar information that would allow me to understand your concerns and better tailor the request.

No fees agreed to; non-commercial status; journalistic & public interest waiver

I am not currently willing to pay for servicing this request. I may be willing to pay if it is necessary; please send a detailed explanation of the costs and their statutory justification, and service the maximum extent of the request that can be done for free in the meantime.

This request is a qualified request for journalistic, public interest purposes. As such, I request fully waived fees, including both public interest fee waiver and journalistic fee waiver.

1. Fiat Fiendum, Inc. (FF) is a 501(c)(3) nonprofit organization, organized for charitable, educational, scientific, and/or literary purposes.

This request is a part of FF's bona fide educational and scientific purpose activities, which are public interest purposes as a matter of law.

2. FF's actions in matters such as this request are non-commercial. My personal interest in the records is also non-commercial.

3. Both Fiat Fiendum as an organization, and I as an individual, are representatives of the news media and entitled to waiver of all search fees.

4. I intend and am able to host and publish all received records online to the general public at no charge, as well to publish highlights, analyses, summaries, commentaries, and other creative, original journalistic and scientific work about responsive records through multiple online publications, as part of Fiat Fiendum's work.

5. The records requested are of significant public interest, entitled to waiver of all duplication fees, since

- a. they are requested for 501(c)(3) public interest purposes;
- b. as above, I both am able and intend to disseminate the files widely;
- c. they would contribute greatly to the public understanding of the operations & activities of your agency, in that they are records that directly describe agency operations & activities, as well as the issues and matters described at the top of this letter;
- d. they are not currently readily available; and
- e. they are likely to be requested by others.

6. As mentioned above, I am explicitly not asking for any physical duplication, but rather direct server-to-server file transfer or email (or posting on your website). FOIA authorizes "duplication" fees strictly limited to your agency's actual costs, and mandates that your agency use the cheapest available requested methods. I consider the actual costs for server-to-server file transfer to be reasonably estimated by, e.g., Amazon S3's pricing (<https://aws.amazon.com/s3/pricing/>).

7. I request that, pending fee waiver determination or appeal, you proceed with this request as if it were in the "other non-commercial requester" category.

Requester

This request is made on behalf of both myself, Sai (in personal capacity) and Fiat Fiendum, Inc. (in official capacity).

"Sai" is my full legal name.

Please note that I am partially blind. I use screen readers (such as VoiceOver and TalkBack). I also need to process documents using computer code (which requires machine-readable data, including metadata). These facts must be considered as part of the basis for, and right to, the form and format requests detailed above.

Sincerely,

Sai

President, Fiat Fiendum, Inc.

Fiat Fiendum is a 501(c)(3) tax-exempt corporation devoted to public interest journalism, government transparency and accountability, individuals' civil rights, and related issues.

Upload link and physical mail address are below. (Again, do not physically mail responsive records without my explicit request; send all responses electronically.)

Filed via MuckRock.com

E-mail (Preferred): 78486-60502961@requests.muckrock.com

Upload documents directly: https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fdepartment-of-agriculture-60%252Fchief-foia-officers-desktops-us-department-of-agriculture-office-of-the-secretary-78486%252F%253Femail%253DUSDAFOIA%252540ocio.usda.gov&url_auth_token=AAAZ3eAmgPE73vt5jCgN3H1qhKU%3A1huOwT%3Agz1SEqEC_CcE2EpaxU_V4aZKrXY

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News

DEPT MR 78486

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

From: [Henderson, Angela \(CTR\) - OCIO-CIO, Washington, DC](#)
To: 78486-60502961@requests.muckrock.com
Cc: [USDAFOIA - OCIO](#)
Subject: 2019-DA-06290-F
Date: Monday, August 26, 2019 6:00:00 PM
Attachments: [2019-DA-06209-F_Request.pdf](#)
[USDA FOIA Fee Schedule.pdf](#)

Subject: Acknowledgment of FOIA Request No. 2019-DA-06290-F

Dear Mr. Sai:

This email acknowledges receipt of your attached Freedom of Information Act (FOIA) request to the U.S. Department of Agriculture (USDA), Departmental FOIA Office (DFO). Your request was received by this office on August 4, 2019. You have requested the following summary as records with no indication of a time frame for a search. A response (in **blue**) follows each part of your request.

A. Chief FOIA Officers' desktops, I hereby request:

1. for the component's
 - a) Chief FOIA Officer,
 - b) Chief Privacy Officer, and
 - c) any substantially equivalent component official ("Officer"):

The USDA DFO employs a Departmental FOIA Officer, which would be "substantially equivalent" to the Chief FOIA Officer, there is, however no Privacy Officer.

 2. the entire content of
 - a) the Officer's **physical desktops**, i.e. everything on the actual desk(s) where they work
 - I) including all other office surfaces, e.g. cabinets, tables, in/out boxes, shelves, etc in the Officer's office(s)
 - II) excluding:
 - i) computers (including desktop, laptop, and phone);
 - ii) USB drives;
 - iii) generic office supplies, i.e. any item that could be purchased off the shelf at a store such as Office Depot in identical form by a member of the general public;
 - iv) tear-off daily flip calendars;
 - v) purely personal capacity items;
 - vi) keys;
 - vii) anything within a fully enclosed hard sided container (e.g. exclude the contents of a desk / cabinet drawer, lockbox, or picture frame — but envelopes laying on a desk [and their contents], items in open-ended organizers, etc are not excluded);
 - viii) books or hard-bound booklets, except for the front and back covers; and
 - ix) CDs or DVDs, except for the label (i.e. what is captured when you place the disc on a flatbed scanner); and
 - b) the Officer's **computer desktop**(s), i.e. the "desktop folder" of their account on every computer that they use in official capacity
 - I) in the exact original file format as stored on the computer, encapsulated into a .ZIP or .TAR.GZ archive set to preserve all metadata and folder structure;

Only such records as those that might have been created by the agency at the time the FOIA request was received will be considered. Your request for photographs of the FOIA Officer's physical desktops, office drawers and cabinets, shelves; computer desktop, closets, office space

and electronic file information represents a request for files that the DFO would have to create, therefore are not defined as “records” for the purpose of FOIA.

B. all records relating to the fulfillment of this request, such as FOIA logs, documentation of searches, referral emails, etc.

This part of the request is to be processed only after you have completed processing all of the above parts. This part does not request that you create any new record; rather, it requests the records that you will have created in processing the above parts, and will therefore exist before you conduct the search for this part. See *McGehee v. CIA*, 697 F. 2d 1095, 1100-05 (D.C. Cir. 1983) (agency must use time-of-search cut-off date, not time-of-request).

Only such records as those that might have been created by the agency at the time the FOIA request was received may be furnished in response to this request. A subsequent request for supplementation would have to be filed upon the closure of this request for all records relating to its fulfillment.

C. all records relating to any complaint(s), FOIA request(s)/appeal(s), and/or Privacy Act request(s)/appeal(s) made by me. This includes, but is not limited to:

1. all records relating to the processing my previous requests, complaints, etc;
2. all records containing the terms my name, email address(es), and other contact or identifying information, listed below my signature; and
3. all records containing any of my complaint, request or appeal identifiers.

Parts (B) and (C) must be processed only after you have processed the items above that line, i.e. such that at the time of the search, the records described will have already been created at the time you conduct the search. Part (C) must be processed after part (B) is completed. Parts (B) and (C) may overlap with similar prior requests. However, the cut-off date is, at earliest, the date that you complete search on all of the above items. If you wish to administratively merge this request with a prior similar request, I consent on condition that you extend the cut-off date for the prior request, and provide rolling updates. Otherwise, you must treat this as a new request.

Request Not Reasonably Described

Your request is too broad in scope or did not specifically identify the records which you are seeking. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. See 7 C.F.R. § 1.5(b). Where possible, a requester should supply specific information regarding dates, titles, names of individuals, names of offices, and name of agencies or organizations that may help identify the records. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Here, the request seeks a record with no description provided for the category of records you’re requesting, other than “complaint”. That term could be broadly interpreted in a regulatory or civil litigation setting and may not have at all the interpretation that you have in mind. If you seek a specific type of document that you know to be in existence, please provide identifying information specific to such document, such as the FOIA request number, or specific date and time.

Since the term “complaint” represents an unreasonably described request, I suggest that you supply specificity for what you mean by “complaint”, identify a specific FOIA request number

or other information that may correlate to the records you seek so that the processor does not have to guess, possibly wrongly, your intended interpretation.

The DFO will process Part C of your previous FOIA requests, and appeals subject to a resolution of the following:

Fee Category & Fee Waiver

Provisions of the FOIA allow USDA to recover part of the cost of complying with your request. For purposes of fee assessment, you were categorized as a “all other” requester, pursuant to 7 CFR Appendix A to Subpart A of Part 1 Section (5)(d). For your review and information, a copy of the USDA FOIA Fee Schedule is attached. In accordance with 7 CFR Appendix A to Subpart A of Part 1 Section 6(a)(4), your fees shall be waived where the amount of the fee is \$25.00 or less.

You have requested a fee waiver. In support of this request, you assert the following:

This request is a qualified request for journalistic, public interest purposes. As such, I request fully waived fees, including both public interest fee waiver and journalistic fee waiver.

1. Fiat Fiendum, Inc. (FF) is a 501(c)(3) nonprofit organization, organized for charitable, educational, scientific, and/or literary purposes. This request is a part of FF's bona fide educational and scientific purpose activities, which are public interest purposes as a matter of law.
2. FF's actions in matters such as this request are non-commercial. My personal interest in the records is also non-commercial.
3. Both Fiat Fiendum as an organization, and I as an individual, are representatives of the news media and entitled to waiver of all search fees.
4. I intend and am able to host and publish all received records online to the general public at no charge, as well to publish highlights, analyses, summaries, commentaries, and other creative, original journalistic and scientific work about responsive records through multiple online publications, as part of Fiat Fiendum's work.
5. The records requested are of significant public interest, entitled to waiver of all duplication fees, since
 - a. they are requested for 501(c)(3) public interest purposes;
 - b. as above, I both am able and intend to disseminate the files widely;
 - c. they would contribute greatly to the public understanding of the operations & activities of your agency, in that they are records that directly describe agency operations & activities, as well as the issues and matters described at the top of this letter;
 - d. they are not currently readily available; and
 - e. they are likely to be requested by others.

You are asking to be categorized as a news media requester for purposes of fees. A news media requester is “any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *Cause of Action v. FTC*, 799 F.3d 1108 (2015). The term “news” means information that is about current events or that would be of current interest to the public. *Id.* The requester’s information-gathering activities are apparent through this and numerous other FOIA requests it has filed. However, the request does not describe firm plans to editorialize and publish distinct work. An internet search for the requesters Sai and Fiat Fiendum did not provide additional information that would support these points. Further, because the records you request are not reasonably described, the DFO cannot characterize to what event(s) or interest(s) responsive records might relate. Based on the foregoing, the request to be classified as a media requester is denied.

With regard to a fee waiver, the USDA FOIA regulation (7 CFR Appendix A to Subpart A of Part 1 Section (6)(a)(1)) sets forth six factors USDA is required to evaluate in determining whether the applicable legal standard for a fee waiver has been met:

- i. The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government";
- ii. The informative values of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- iii. The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether the disclosure of the requested information will contribute to "public understanding";
- iv. The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;
- v. The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and,
- vi. The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

Upon review of your request and a careful consideration of the factors listed above, the DFO has determined to deny your request for a fee waiver because the information that you provided has not satisfied all six factors. Specifically, the request lacks sufficient information to address factors 1, 2, 3, 4, 5,6. As explained above, the request is not reasonably described; as such, it does not allow for a fee waiver analysis to be conducted under these factors. You will be charged in accordance with the attached USDA FOIA Fee Schedule. You may provide additional information in support of the factors that have not been met for reconsideration of the fee waiver in the context of how information from your individual requests adds value to the public interest.

Alternatively, you state in your request that "no fees [are] agreed to" and you "are not currently willing to pay to service this request" and "that you may be willing to pay if it is necessary". Please provide a dollar amount that you would be willing to pay, so that we can continue to process your request.

You have the right to appeal, pursuant to 7 CFR §1.14, the denial of a preferred requester category and of a fee waiver. The appeal must be received within 90 days of the date of the denial letter. The written appeal must clearly indicate that a FOIA appeal is being made and should be sent to: Assistant Secretary for Administration, USDA, 1400 Independence Avenue, S.W., Whitten Building 209-A, Washington, D.C. 20250-0103. Your appeal should include a copy of the original request, the response to the request, and a statement of your reason for the appeal. To facilitate the processing of an appeal, the phrase "FOIA APPEAL" in capital letters should be placed on the front of the envelope.

Your request has been assigned FOIA Case No. 2019-DA-06209. Please refer to this case

number in any future correspondence. If you have any questions regarding this email or would like to discuss these matters, please contact me at 202-694-1802 or electronically at Angela.Henderson@usda.gov or USDAFOIA@ocio.usda.gov.

For additional information regarding USDA FOIA regulations and process, please refer to the information available on-line at www.dma.usda.gov/foia.

We appreciate the opportunity to assist you.

Sincerely,

USDA Departmental FOIA Office

USDA FOIA Fee Schedule

7 CFR Appendix A to Subpart A of Part 1

Type of Requester	Type of Charge	Price
Commercial	Duplication	\$.20 per page
	Search	Actual salary rate of employee involved, plus 16% of salary rate*
	Review	Actual salary rate of employee involved, plus 16% of salary rate
Educational or Non-Commercial Scientific	Duplication	No charge for first 100 pages, then \$.20 per page
	Search	Free
	Review	Free
News Media	Duplication	No charge for first 100 pages, then \$.20 per page
	Search	Free
	Review	Free
All Other	Duplication	No charge for first 100 pages, then \$.20 per page
	Search	No charge for first two (2) hours of search, then actual salary rate of employee involved, plus 16% of salary rate *
	Review	Free

In accordance with 7 CFR Appendix A to Subpart A of Part 1 Section 6 (a)(4), fees shall be waived where the amount of the fee is \$25.00 or less.

*Where a homogeneous class of personnel is used exclusively for search time, the rate of \$10.00 per hour is charged for clerical time and \$20.00 per hour for supervisory or professional time. (7 CFR Appendix A to Subpart A of Part 1 Section 4 (d)(2)).